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Joint Inspection Unit

Contract management and administration in the United Nations system

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly his comments and those of the United Nations System Chief Executives Board for Coordination on the report of the Joint Inspection Unit entitled "Contract management and administration in the United Nations system" (JIU/REP/2014/9).

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Summary

The report of the Joint Inspection Unit entitled "Contract management and administration in the United Nations system" (JIU/REP/2014/9) analyses the way in which United Nations system organizations manage these contracts in order to identify good practices and share lessons learned.

The present note reflects the views of organizations of the United Nations system on the recommendations provided in the report. The views have been consolidated on the basis of input provided by member organizations of the United Nations System Chief Executives Board for Coordination, which welcomed the report and supported some of its conclusions.

I. Introduction

1. In its report entitled "Contract management and administration in the United Nations system" (JIU/REP/2014/9) the Joint Inspection Unit notes that organizations of the United Nations system collectively awards over $16 billion in contracts and analyses the way United Nations system organizations manage these contracts in order to identify good practices and share lessons learned.

II. General comments

2. Organizations of the United Nations system welcome the report of the Joint Inspection Unit on contract management and administration in the United Nations system, noting that proper management of contract activities is a fundamental requirement for good management. Organizations support most of the findings and recommendations included in the report, with many noting that they plan to apply the lessons learned to strengthen policies and procedures as appropriate. For some organizations, it may not make sense from a cost-benefit perspective to implement all recommendations fully.

3. Smaller organizations note that several recommendations may not be practical to implement given the limited scale of their procurement function.

4. Some organizations took issue with the suggestion contained in paragraph 60, that the terms of reference of contracts committees be reviewed with a view to expanding their role to include oversight and monitoring of post-award contract management. For example, for the United Nations Secretariat, the current terms of reference were established based on the Financial Regulations and Rules, which clearly define the Committees' role as pre-award. To involve the Committees in post-award contract management issues would represent a significant change and would likely require a significant adjustment to the membership of the Committee. However, organizations express a more fundamental concern regarding this suggestion in that oversight is best exercised by managers with responsibility for contract implementation and to their supervisors and not to review committees, which have no decision-making role or authority for implementation. There may also be a question of a conflict of interest if the same members who recommended an award of contract are tasked with overseeing the implementation of that contract.

III. Specific comments on recommendations

Recommendation 1

The legislative bodies of the United Nations system organizations should direct the executive heads of their organizations to update and, when necessary, develop specific policies, procedures, guidance and follow-up systems to ensure effective and efficient management of post-award contract activities.

5. Noting that recommendation 1 is directed at legislative bodies, organizations support the creation and maintenance of "policies, procedures, guidance and follow-up systems to ensure effective and efficient management of post-award contract activities", noting that such measures can only strengthen procurement throughout the United Nations system. They note that this may entail the development of

regulatory frameworks, the assignment and training of contract managers and the establishment of more effective monitoring mechanisms. While potentially incurring additional costs for the organization, they may be offset by savings or the avoidance of losses from poorly managed contracts. Nevertheless, the costs and benefits should be considered and it may be prudent to tailor the policies to different types of contracts.

Recommendation 2

The executive heads of the United Nations system organizations should incorporate in their annual statements of internal controls certifications, by individuals with procurement and contracts management authority, that the execution of contracts has been in full compliance with the organization's policies, procedures and rules.

6. Organizations support recommendation 2, but point out that the measure will be effective only if it is verifiable (e.g., assertion properly supported through documentation) and is indeed verified. Organizations also suggest that this might be broadened to include other areas, such as the pre-award process, but that a general internal control certification could be stated in such a way that it covers all relevant areas including contract management.

Recommendation 3

The legislative bodies of the United Nations system organizations should direct the executive heads of their organizations to put in place a system whereby the persons designated to manage contracts after award are notified in writing about their accountability and responsibilities when managing a contract, and possess the required qualifications to manage the contract.

7. While noting that recommendation 3 is directed at legislative bodies, and while accepting the need for contract managers to have the appropriate qualifications and to accept the responsibilities and accountabilities inherent in that role, organizations suggest that implementing processes that generate notification in writing seems to be impracticable and administratively inefficient, especially in environments with a large procurement portfolio. Therefore, a cost-benefit analysis would be necessary to determine the value of implementing such a system. Further, many organizations note that in general contract management responsibilities are laid out in the job descriptions of relevant staff members.

Recommendation 4

The executive heads of the United Nations system organizations should reassess the financial and human-resource needs for post-award contract management in terms of current and projected contract volume, value, complexity and type and decide on the best support structures required (e.g., centralized or decentralized) to ensure best value for money and the achievement of the organization's objectives.

8. Organizations support the review of resources and procedures necessary for effective contract management, including systems and training, as called for in recommendation 4, noting that proper management of contract activities is fundamental to strengthening procurement procedures, policies and systems.

However, any adjustments determined to be necessary following such a review would have to be subject to the availability of funds.

Recommendation 5

The executive heads of the United Nations system organizations should develop a specific contract-management training programme in their organizations that would include courses offered as a requirement for all persons managing contracts of a certain size, value and complexity.

9. Organizations agree with recommendation 5, but note implementation would be subject to the availability of resources and after conducting a cost-benefit analysis. Organizations also suggest that recommendation 5 might be more appropriately addressed globally to United Nations agencies and point out that it may not be cost effective for smaller organizations to develop their own specific contract management training programmes, but instead to partner with other United Nations organizations or to contract commercially available training as appropriate. Some organizations suggest that making this training a mandatory part of the "onboarding" of project and procurement managers would be beneficial.

Recommendation 6

The executive heads of the United Nations system organizations should ensure that supervisors of persons managing contracts incorporate contract-management criteria in these persons' annual performance evaluations.

10. Organizations agree with recommendation 6, and support the inclusion of contract management criteria in performance management evaluation in positions where contract management is a significant job responsibility.

Recommendation 7

The executive heads of the United Nations system organizations should ensure that for contracts of a certain value and complexity risk-management plans are in place covering post-award contract activities. These plans should include risk-mitigation measures and also clear designation of responsibility to those persons executing such measures.

11. Organizations support the spirit of recommendation 7, and agree with the concept that the risks related to large and complex contracts need to be adequately managed. However, some organizations that already operate enterprise risk management systems express uncertainty about whether a further formal risk assessment related to contracts would outweigh its benefits.

Recommendation 8

The executive heads of the United Nations system organizations should ensure that a system exists in their organizations for documenting and reporting on a contractor's performance in meeting contract requirements, and assign responsibility and management accountability for completeness of the contractor's performance reporting.

12. Organizations agree with the value of measuring, documenting and reporting contractors' performance in relation to meeting the contract requirements, as

expressed in recommendation 8. They note that such a capability allows organizations to provide objective feedback to suppliers and put in place supplier development programmes for them to address any gaps identified. However, some organizations note that the realization of this recommendation is subject to available resources.

Recommendation 9

The executive heads of the United Nations system organizations should conduct a study in their organizations to analyse the causes of modifications in contracts above certain thresholds and identify systemic deficiencies contributing to cost increases and delays. Remedial action should follow to address such deficiencies.

13. Organizations generally support recommendation 9 and acknowledge its call for strengthening internal analytical practices and capabilities for managing contracts. While they generally agree with the view that it would be valuable for senior management to be updated regularly on the total value of all contracts, status of contracts, contracts closed out, cost overruns, significant disputes, etc., many organizations do not consider it necessary to conduct a study of the kind suggested in the recommendation, especially when there has been no evidence of systemic deficiencies in its contract management operations and considering that modifications to contracts are normally subject to close management scrutiny, including review by contracts committees, as well as internal and external audit.

Recommendation 10

The executive heads of the United Nations system organizations should ensure that, when applicable, appropriate levels of liquidated damages and other remedies are included in the standard clauses of contracts and are judiciously enforced to protect the interests and rights of their organizations.

14. Organizations support recommendation 10, and note that the measures recommended should be complemented by concrete and detailed instructions on how to apply and enforce liquidated damages and a well-functioning vendor sanction mechanism.

Recommendation 11

The executive heads of the United Nations system organizations should augment the capabilities of their existing information technology systems such as enterprise resource planning systems, or consider other specialized contract-management systems, to support the management of post-award contract activities based on a cost/benefit analysis and taking into account the level of need for such functionality.

15. While most organizations support recommendation 11, some organizations, particularly those with small procurement portfolios, suggest that such augmentation of its existing enterprise resource planning system, or the adoption of other specialized contract-management systems, is unlikely to bring benefits in proportion to the cost.

Recommendation 12

The Secretary-General of the United Nations, in his capacity as Chair of the Chief Executives Board for Coordination, should ensure that post-award contract-management issues become an agenda item of the High-level Committee on Management-Procurement Network and are addressed in the ongoing initiatives to professionalize and harmonize the procurement process within the United Nations system.

16. Organizations support continued inter-agency dialogue on post-award contract management, as presented in recommendation 12, but also emphasize that post-award contract management is not only the responsibility of the procurement function but also of those functions and individuals with responsibility for contract management, which will often be the recipients of goods and services.